

Court of Appeals, State of Michigan

ORDER

Lucre Inc v Michigan Bell Telephone Company

Docket No. 259710

LC No. 04-07026 CH

Stephen L. Borrello
Presiding Judge

Richard Allen Griffin

Donald S. Owens
Judges

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2) is GRANTED and this claim of appeal is DISMISSED for lack of jurisdiction. MCR 7.202(6)(a)(i) defines the final order as the first order disposing of the claims of the parties. That first order was the July 30, 2004, order that disposed of plaintiff's complaint that sought a preliminary injunction. Any appeal of that MCR 7.202(6)(a)(i) final order had to be filed no later than August 20, 2004. The fact that defendant filed a counter claim on August 23, 2004, according to the register of actions, after the appeal period had already expired from the MCR 7.202(6)(a)(i) final order does not convert the October 28, 2004, order into the first order disposing of the claims of the parties. Furthermore, the Court agrees with appellee that a transfer of the counter claim to the MPSC does not constitute a disposition of that counter claim and thus would not fall within the MCR 7.202(6)(a)(i) final order definition.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB - 9 2005

Date

Sandra Schultz Mengel
Chief Clerk